

● PRINTER RUSH ●
(PTO ASSISTANCE)

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|--------------------------------|-------------------------------|----------------------------|
| Application : <u>10/768508</u> | Examiner : <u>Kruse</u> | GAU : <u>1638</u> |
| From : <u>NRB</u> | Location : <u>IDC</u> FMF FDC | Date : <u>8-3-05</u> |
| Tracking # : <u>0607197-3</u> | | Week Date : <u>5-16-05</u> |

| DOC CODE | DOC DATE | MISCELLANEOUS |
|--|------------------|--|
| <input type="checkbox"/> 1449 | _____ | <input type="checkbox"/> Continuing Data |
| <input type="checkbox"/> IDS | _____ | <input type="checkbox"/> Foreign Priority |
| <input type="checkbox"/> CLM | _____ | <input type="checkbox"/> Document Legibility |
| <input type="checkbox"/> IIFW | _____ | <input type="checkbox"/> Fees |
| <input type="checkbox"/> SRFW | _____ | <input type="checkbox"/> Other |
| <input type="checkbox"/> DRW | _____ | |
| <input type="checkbox"/> OATH | _____ | |
| <input type="checkbox"/> 312 | _____ | |
| <input checked="" type="checkbox"/> SPEC | <u>1-30-2004</u> | |

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| [RUSH] MESSAGE: | <u>Blank text in specification page 47,</u> <u>Lines 5 and 6.</u> |
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| <u>Please Resolve.</u> | |
| | |
| <u>Thank you</u> <u>NRB</u> | |

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|-----------------------------|---|
| [XRUSH] RESPONSE: | <u>Missing text supplied in attached amendment.</u> |
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| INITIALS: <u>KAT</u> | |

NOTE: This form will be included as part of the official USPTO record, with the Response document coded as XRUSH.
REV 10/04

PIONEER HI-BRED INTERNATIONAL, INC.
CORPORATE INTELLECTUAL PROPERTY DEPARTMENT

FAX TRANSMISSION

7100 N.W. 62nd Avenue
P.O. Box 1000
Johnston, Iowa 50131-1000

Phone: (515) _____
Fax: (515) 334-6883

TO: Lacie Hawkins

FROM: Steve Callister

RE: Case 1812 10/768,508

DATE: 8-15-05 FAX NUMBER: 703-746-4658

NUMBER OF PAGE(S) FOLLOWING THIS SHEET: 6

COMMENTS:

312 Amendment

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Case No. 1812

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Luzzi, Bruce M. et al.
SERIAL NO : 10/768,508
FILED : January 30, 2004
TITLE : Soybean Variety XB32Y04

Grp./A.U. : 1638
Examiner : Kruse, David H.
Cust. No. : 27310
Docket No. : 1812

AMENDMENT AFTER ALLOWANCE UNDER 37 C.F.R. §1.312

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DOCKETED
JUN 23 2005

Dear Sir:

Entry of the following Amendment After Allowance Under 37 C.F.R. §1.312 is requested.

Introductory Comments

Claims 1-8 are allowed in the present application.

Amendment to the Specification is on page 2.

Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Remarks begin on page 5 of this paper.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

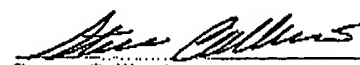
MAILING

☐ deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Mail Stop Non-Fee Amendment, Alexandria, VA 22313-1450.

FACSIMILE

☒ transmitted by facsimile to the Patent and Trademark Office, Art Unit 1638 at Fax No. (703) 872-9306.

Date: _____


Steven Callistein
Date: 6/16/2005

Amendment to the Specification

Please replace the paragraph under the heading "DEPOSIT" on page 47 with the following:

Applicant(s) ~~will make~~ have made a deposit of at least 2500 seeds of Soybean Variety XB32Y04 with the American Type Culture Collection (ATCC), Manassas, VA 20110 USA, ATCC Deposit No. [[_____]] PTA-6666. The seeds deposited with the ATCC on [[_____]] April 13, 2005 ~~will be~~ were taken from the deposit maintained by Pioneer Hi-Bred International, Inc., ~~800 Capital Square, 400 Locust Street, Des Moines~~ 7100 NW 62nd Avenue, Johnston, Iowa 50309-2340 50131-1000 since prior to the filing date of this application. Access to this deposit will be available during the pendency of the application to the Commissioner of Patents and Trademarks and persons determined by the Commissioner to be entitled thereto upon request. Upon allowance of any claims in the application, the Applicant(s) will make the deposit available to the public, pursuant to 37 CFR 1.808. This deposit of Soybean Variety XB32Y04 will be maintained in the ATCC depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it becomes nonviable during that period. Additionally, Applicants have or will satisfy all the requirements of 37 C.F.R. §§1.801 - 1.809, including providing an indication of the viability of the sample upon deposit. Applicants have no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicants do not waive any infringement of their rights granted under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.). U.S. Plant Variety Protection of Soybean Variety XB32Y04 may be applied for. Unauthorized seed multiplication is prohibited.

Amendments to the Claims

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claim 1 (Currently Amended). A seed of soybean variety XB32Y04, representative seed of said soybean variety XB32Y04 having been deposited under ATCC Accession No. [[_____.]] PTA-6666.

Claim 2 (Original). A soybean plant, or a part thereof, produced by growing the seed of claim 1.

Claim 3 (Original). The soybean plant part of claim 2, wherein said part is pollen.

Claim 4 (Original). The soybean plant part of claim 2, wherein said part is an ovule.

Claim 5 (Original). A tissue culture of protoplasts or regenerable cells produced from the plant of claim 2.

Claim 6 (Original). The tissue culture according to claim 5, wherein the cells or protoplasts are produced from a plant tissue selected from the group consisting of leaf, pollen, cotyledon, hypocotyl, embryos, root, pod, flower, shoot and stem.

Claim 7 (Currently Amended). A soybean plant regenerated from the tissue culture of claim 5 having all the morphological and physiological characteristics of soybean variety XB32Y04, representative seed of said soybean variety XB32Y04 having been deposited under ATCC Accession No. [[_____.]] PTA-6666.

Claim 8 (Currently Amended). A method for producing a progeny soybean plant comprising crossing the plant of claim 2 with a different soybean plant, harvesting the resultant soybean seed, and growing a soybean plant.

REMARKS

The foregoing amendment to the specification and claims of this application are to add the ATCC accession number to the deposit paragraph and claims. There is no change of scope in the claims resulting from this request and no new matter has been added.

Respectfully submitted,



Steven Callistein
Reg. No. 43,525
Attorney for Applicant

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(515)-254-2823

MAY - 5 2005

ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

The American Type Culture Collection (ATCC) has received your deposit of seeds in connection with the filing of an application for patent. The following information is provided to fulfill Patent Office requirements.

Name and Address of Depositor:

Pioneer Hi-Bred International Inc.
Attn: Steve Callistein
7100 NW 62 Avenue
PO BOX 1000
Johnston, IA 50131-1000

Deposited on Behalf of:

Pioneer Hi-Bred International Inc.

Date of Receipt of Seeds by the ATCC:

April 13, 2005

Scientific Description**Depositor's Reference****Patent Deposit Designation**

Soybean Seed

XB32Y04

PTA-6666

1812

The ATCC understands that:

1. The deposit of these seeds does not grant ATCC a license, either express or implied, to infringe the patent, and our release of these seeds to others does not grant them a license, either express or implied, to infringe the patent.
2. If these seeds should die or be destroyed during the effective term of the patent, it shall be your responsibility to replace them with living seeds of the same type. It is also your responsibility to supply a sufficient quantity for distribution for the deposit term.

Prior to the issuance of a U.S. Patent, the ATCC agrees in consideration for a one-time service charge, not to distribute these seeds or any information relating thereto or to their deposit except as instructed by the depositor or relevant patent office. After a relevant patent issues, and we are instructed to release the seeds, they will be made available for distribution to the public without any restrictions.

The ATCC agrees to maintain the seeds for a period of 30 years from deposit date, or 5 years after the most recent request for a sample, whichever is longer.

We will inform you of requests for the seeds for 30 years from date of deposit.

The seeds were tested April 25, 2005 and were viable.

American Type Culture Collection

By Marie Harris
Marie Harris, Patent Specialist
ATCC Patent Depository

Date: April 29, 2005